

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

**SECURITIES AND EXCHANGE COMMISSION,**

*Plaintiff,*

**v.**

**CARRILLO HUETTEL LLP,  
LUIS J. CARRILLO, WADE D. HUETTEL,  
GIBRALTAR GLOBAL SECURITIES,  
WARREN DAVIS, JOHN B. KIRK,  
BENJAMIN T. KIRK, DYLAN L. BOYLE,  
JAMES K. HINTON JR., LUNIEL DE BEER,  
JOEL P. FRANKLIN, PACIFIC BLUE ENERGY  
CORPORATION, TRADESHOW MARKETING  
COMPANY LTD, AND DR. LUIS CARRILLO,**

*Defendants,*

**- AND -**

**DR. LUIS CARRILLO,**

*Relief Defendant.*

**1:13-cv-01735 (GBD)  
ECF CASE**

**DECLARATION OF TODD D. BRODY IN OPPOSITION  
TO DEFENDANTS' MOTIONS TO DISMISS**

I, Todd D. Brody, pursuant to 28 U.S.C. 1746, declare as follows:

1. I am a senior trial counsel in the Enforcement Division of the New York Regional Office of the Securities and Exchange Commission. I make this declaration in opposition to the motions of certain Defendants to dismiss the complaint in this matter.

2. Attached as Exhibit A is a copy of the Declaration of Luis Carrillo dated March 10, 2012.

3. Attached as Exhibit B is a copy of the Declaration of Wade D. Huettel dated March 13, 2012.

4. Attached as Exhibit C is a copy of the June 28, 2012 letter from Ronald N. Pelletier, counsel for James Hinton, to the British Columbia Securities Commission (BCSC), which was sent to the staff of the SEC by the BCSC.

5. On February 9, 2012, Commission staff spoke by phone to David Gourevitch, counsel for Luniel de Beer in this matter. During that telephone conversation Commission staff explained that the staff's review of the flash drive produced by Joel Franklin was only to understand the organization and the volume of documents and to confirm whether the drive did, in fact, contain attorney emails. The staff explained to Mr. Gourevitch that all contents of the flash drive produced by Franklin were segregated from the remainder of the investigative file.

6. On August 24, 2012, the Commission sent separate Wells notices to each of the following defendants (among other defendants): Wade Huettel through his counsel William Fleming, Luis Carrillo through his counsel Thomas Curran, and Carrillo Huettel LLP through its counsel at the time, Treazure Johnson.

7. On February 1, 2013, enforcement staff submitted a request to the Commission's Director of Enforcement seeking an extension until March 19, 2013 to file an enforcement action in this matter. That request was granted by the Director of Enforcement.

8. On June 12, 2013, I spoke with Steven D. Feldman of Herrick Feinstein in New York, who confirmed he was representing B. Kirk for the limited purpose of determining jurisdictional issues in the U.S. Mr. Feldman said he was not authorized to accept service on behalf of his client B. Kirk. During the conversation, I informed Mr. Feldman (among other

things) of the Commission's intent to move this Court for alternative service by serving Ben Kirk's attorney with the complaint. Mr. Feldman inquired as to whether the staff intended to effectuate service by serving Ben Kirk's Canadian counsel or the Herrick firm.

9. Attached as Exhibit D is a copy of the unreported decision *SEC v. Scammell*, Civ. No. 11-6597 (DSF)(MRW) (C.D. Ca. Nov. 15, 2011).

I declare under penalty of perjury that the foregoing is true and correct.

Executed: New York, New York  
October 18, 2013

By: 

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Todd D. Brody